

each lender issues a “pass-through security” (each, a PTS) backed by the mortgages and sells the PTS to X. Under the terms of the PTS, the lender pays X an amount equal to the regular monthly payments on the mortgages (less certain fees), whether or not received by the lender (plus any prepayments and liquidation proceeds in the event of a foreclosure or other disposition of any mortgages). FNMA guarantees the timely payment of principal and interest on each PTS. From the payments received from each mortgagor, the lender pays a fee to FNMA for its guarantee of the PTS. The amounts paid to FNMA do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds. Under this paragraph (b)(2)(iii), the fees for the guarantee provided by FNMA are an insurance charge because the guarantee is pool mortgage insurance. Because the amounts charged for the guarantee do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds, the amounts charged for the guarantee are not taken into account in computing the effective rate of interest on the mortgages financed with X’s bonds.

(3) *Additional rules.* To the extent not inconsistent with the Tax Reform Act of 1986, Public Law 99-514 (the 1986 Act), or subsequent law, § 6a.103A-2(i)(2) (other than paragraphs (i)(2)(i) and (i)(2)(ii)(A) through (C)) of this chapter applies to provide additional rules relating to compliance with the requirement that the effective rate of mortgage interest not exceed the bond yield by more than 1.125 percentage points.

(c) *Arbitrage and investment gains to be used to reduce costs of owner-financing.* As provided in section 143(g)(3), certain earnings on nonpurpose investments must either be paid or credited to mortgagors, or paid to the United States, in certain circumstances. To the extent not inconsistent with the 1986 Act or subsequent law, § 6a.103A-2(i)(4) of this chapter applies to provide guidance relating to compliance with this requirement.

(d) *Effective dates—(1) In general.* Except as otherwise provided in this section, § 1.143(g)-1 applies to bonds sold on or after May 23, 2005, that are subject to section 143.

(2) *Permissive retroactive application in whole.* Except as provided in paragraph (d)(4) of this section, issuers may apply § 1.143(g)-1, in whole, but not in part, to

bonds sold before May 23, 2005, that are subject to section 143.

(3) *Bonds subject to the Internal Revenue Code of 1954.* Except as provided in paragraph (d)(4) of this section and subject to the applicable effective dates for the corresponding statutory provisions, an issuer may apply § 1.143(g)-1, in whole, but not in part, to bonds that are subject to section 103A(i) of the Internal Revenue Code of 1954.

(4) *Special rule for pre-July 1, 1993 bonds.* To the extent that an issuer applies this section to bonds issued before July 1, 1993, § 6a.103A-2(i)(3) of this chapter also applies to the bonds.

[T.D. 9204, 70 FR 29449, May 23, 2005]

**§ 1.144-0 Table of contents.**

This section lists the captioned paragraphs contained in §§ 1.144-1 and 1.144-2.

*§ 1.144-1 Qualified small issue bonds, qualified student loan bonds, and qualified redevelopment bonds.*

- (a) Overview.
- (b) Scope.
- (c) Effective dates.

*§ 1.144-2 Remedial actions.*

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

**§ 1.144-1 Qualified small issue bonds, qualified student loan bonds, and qualified redevelopment bonds.**

(a) *Overview.* Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(D), a qualified small issue bond issued under section 144(a) may be a qualified bond. Under section 144(a), any qualified small issue bond is any bond issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide certain manufacturing facilities or certain depreciable farm property and which meets other requirements. Under section 141(e)(1)(F) a qualified redevelopment bond issued under section 144(c) is a qualified bond. Under section 144(c), a qualified redevelopment bond is any bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used for one or more redevelopment purposes and which meets certain other requirements.

(b) *Scope.* Sections 1.144-0 through 1.144-2 apply for purposes of the rules

**Internal Revenue Service, Treasury**

**§ 1.145-2**

for small issue bonds under section 144(a) and qualified redevelopment bonds under section 144(c), except that §1.144-2 does not apply to the requirements for qualified small issue bonds under section 144(a)(4) (relating to the limitation on capital expenditures) or under section 144(a)(10) (relating to the aggregate limit of tax-exempt bonds per taxpayer).

(c) *Effective dates.* For effective dates of §§1.144-0 through 1.144-2, see §1.141-16.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

**§ 1.144-2 Remedial actions.**

The remedial action rules of §1.142-2 apply to qualified small issue bonds issued under section 144(a) and to qualified redevelopment bonds issued under section 144(c), for this purpose treating those bonds as exempt facility bonds and the qualifying purposes for those bonds as exempt facilities.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

**§ 1.145-0 Table of contents.**

This section lists the captioned paragraphs contained in §§1.145-1 and 1.145-2.

*§ 1.145-1 Qualified 501(c)(3) bonds.*

- (a) Overview.
- (b) Scope.
- (c) Effective dates.

*§ 1.145-2 Application of private activity bond regulations.*

- (a) In general.
- (b) Modification of private business tests.
- (c) Exceptions.
  - (1) Certain provisions relating to governmental programs.
  - (2) Costs of issuance.
  - (d) Issuance costs financed by prior issue.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997, as amended by T.D. 9234, 70 FR 75035, Dec. 19, 2005]

**§ 1.145-1 Qualified 501(c)(3) bonds.**

(a) *Overview.* Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(G), a qualified 501(c)(3) bond issued under section 145 is a qualified bond. Under section 145, a qualified 501(c)(3) bond is any bond issued as a part of an issue that satisfies the requirements of sections 145(a) through (d).

(b) *Scope.* Sections 1.145-0 through 1.145-2 apply for purposes of section 145(a).

(c) *Effective dates.* For effective dates of §§1.145-0 through 1.145-2, see §1.141-15.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

**§ 1.145-2 Application of private activity bond regulations.**

(a) *In general.* Except as provided in this section, §§1.141-0 through 1.141-15 apply to section 145(a). For example, under this section, §1.141-1, and §1.141-2, an issue ceases to be an issue of qualified 501(c)(3) bonds if the issuer or a conduit borrower 501(c)(3) organization takes a deliberate action, subsequent to the issue date, that causes the issue to fail to comply with the requirements of sections 141(e) and 145 (such as an action that results in revocation of exempt status of the 501(c)(3) organization).

(b) *Modification of private business tests.* In applying §§1.141-0 through 1.141-15 to section 145(a)—

(1) References to governmental persons include 501(c)(3) organizations with respect to their activities that do not constitute unrelated trades or businesses under section 513(a);

(2) References to “10 percent” and “proceeds” in the context of the private business use test and the private security or payment test mean “5 percent” and “net proceeds”; and

(3) References to the private business use test in §§1.141-2 and 1.141-12 include the ownership test of section 145(a)(1).

(c) *Exceptions—(1) Certain provisions relating to governmental programs.* The following provisions do not apply to section 145: §1.141-2(d)(4) (relating to the special rule for dispositions of personal property in the ordinary course of an established governmental program) and §1.141-2(d)(5) (relating to the special rule for general obligation bond programs that finance a large number of separate purposes).

(2) *Costs of issuance.* Section 1.141-3(g)(6) does not apply to section 145(a)(2) to the extent that it provides that costs of issuance are allocated ratably among the other purposes for which the proceeds are used. For purposes of section 145(a)(2), costs of